



# Staley Communications, Inc.

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WT 99-87  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Honorable Alan Mollohan  
United States House of Representatives  
2346 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representative Mollohan:

Staley Communications is one of the leading private wireless communication sales and service providers in the West Virginia panhandle, as well as Eastern Ohio, and Western Pennsylvania. Our corporate headquarters located in Wheeling currently consists of a total of twenty sales, service, and office personal. We maintain a broad base of clientele from Federal government agencies to a variety of local agencies such as Marshall County, Ohio County, and City of Wheeling emergency dispatch centers, but our business is heavily dependent on the private sector from large industry to small business.

This private industry relies heavily on their wireless communication systems to effectively run their business operations, and in most cases have designed these systems specifically for their application. The proposed auctioning of this frequency spectrum to commercial providers and forcing the private industry to utilize these systems in most cases is not a viable alternative to fulfill their needs. The end result will not only affect the manner in which private industry operate their business, but will also have a huge impact on all companies such as ours whom provide services to this sector of business.

On December 22, 1998, several members of Congress filed the enclosed letter with the Federal Communications Commission emphasizing the Commission's statutorily mandated obligation to "avoid mutual exclusivity in application and licensing proceedings" particularly with respect to private wireless applications. This letter also clarifies that, while Congress expanded the Commission's auction authority, this in no way releases the Commission from its obligation to seek ways to avoid mutual exclusivity among applicants before conducting an auction.

Staley Communication wholeheartedly supports this letter's attempt to protect the future of the private wireless industry and its communication requirements. Internal telecommunications networks are vital to the operation of my business and the safety of my employees. I believe that, in the current highly competitive spectrum allocation environment, the needs of internal wireless users are being ignored in favor of commercial wireless systems.

I strongly urge you to write your own letter supporting the principles contained within the attached letter. Any assistance you can give in clarifying the extent of the Commission's auction authority and its continuing obligation to avoid mutual exclusivity where it can would be greatly appreciated. Thank you for your time and consideration. We would appreciate receiving copies of any correspondence forwarded to the FCC.

Sincerely,

  
Mark Staley

President

Staley Communication Inc.

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Federal Communications Commission  
Washington, D.C. 20554

December 1, 1999

COPY

The Honorable Alan B. Mollohan  
U.S. House of Representatives  
2346 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Mollohan:

Thank you for forwarding to the Commission a letter from your constituent, Mark Staley, President of Staley Communications, Inc. Mr. Staley expresses concern about the impact of competitive bidding on the availability of spectrum for private wireless uses.

Mr. Staley's letter, which addresses the Commission's obligation to avoid mutual exclusivity with respect to applications for private wireless licenses, relates to implementation of the Balanced Budget Act of 1997. The Commission is currently considering comments filed in response to a *Notice of Proposed Rule Making* ("Notice"), WT Docket No. 99-87, adopted on March 19, 1999, relating to the revision to its auction authority made by that statute. Under the Commission's original auction authority, provided by the 1993 Omnibus Budget Reconciliation Act, most private radio services were deemed nonauctionable because they were not used to provide subscriber-based communications services. Additionally, private radio frequencies were nonauctionable because they were generally licensed by processes that do not result in the filing of mutually exclusive license applications. In the Balanced Budget Act of 1997, Congress both renewed and expanded the FCC's auction authority, in part, because assigning licenses by auction helps ensure efficient spectrum use. Nevertheless, in considering how to implement our expanded auction authority, we are mindful of the emphasis placed on our obligation under Section 309(j)(6)(E) to consider engineering solutions and other means to avoid mutual exclusivity among applicants for initial licenses.

In the *Notice*, the Commission sought comment on the licensing schemes that might be used for private services and whether an auction is an appropriate tool for managing the efficient assignment of this spectrum. The *Notice* also asked whether we could implement a competitive bidding process that is tailored to the specific characteristics of private services and the needs of entities that typically hold licenses in such services. I note that there is one spectrum management tool currently not available to the FCC, known as user fees for private services. Such an option could substitute for auctions as a means of ensuring that private users make efficient use of spectrum. However, the FCC lacks statutory authority to assess such user fees.

Overall, we have not reached any final conclusions about the approach that we will take. After examining the record in this proceeding, we intend to evaluate whether our licensing process should change, if at all, in the interest of sound spectrum management.

Thank you for your inquiry into this matter. We will add Mr. Staley's letter to the record in the current proceeding.

Sincerely,

A handwritten signature in cursive script, reading "Mark R. Balling for".

Amy J. Zoslov  
Chief, Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau